

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JANE ROE,

Plaintiff,

v.

3:05-cv-0332

COUNTY OF BROOME, et al.,

Defendants.  
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THOMAS J. McAVOY  
Senior United States District Judge

**DECISION and ORDER**

**I. FACTS**

On March 16, 2005, Plaintiff filed the Complaint in the instant matter. She attempted to effectuate service upon Defendant Correctional Medical Services, Inc. ("CMS"), pursuant to Fed. R. Civ. P. 4(d). CMS, however, declined to execute the waiver of service form. It was, therefore, incumbent upon Plaintiff to effectuate service via other means. Plaintiff personally served CMS on October 18, 2005, long after the 120 day limit provided in Fed. R. Civ. P. 4(m). Plaintiff never sought an extension of time within which to effectuate service. Defendant now moves to dismiss for lack of personal jurisdiction.

Defendant also moves to dismiss on the ground that Plaintiff has failed to identify herself as required by the Rules of Civil Procedure, see Fed. R. Civ. P. 10(a) and 17(a), and has failed to seek leave to proceed anonymously. Plaintiff has failed to timely file opposition papers.

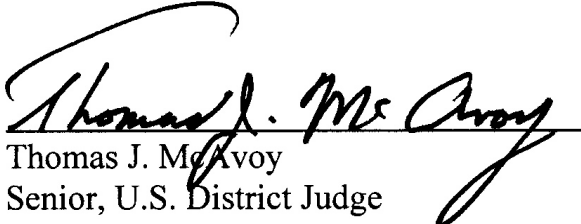
Pursuant to Fed. R. Civ. P. 4(m), service of process must be effectuated within 120 days of the filing of the Complaint, unless the plaintiff has sought an extension or demonstrated good cause for the failure. In this case, Plaintiff did not timely effectuate service and has neither sought an extension of time to serve CMS or demonstrated good cause for her failure to timely effectuate service.

Rules 10(a) and 17(a) require the Complaint to state the name of the real party in interest. "When a party wishes to file a case anonymously or under a pseudonym, it must first petition the district court for permission to do so." W.N.J. v. Yocom, 257 F.3d 1171, 1172 (10<sup>th</sup> Cir. 2001). Plaintiff has not stated her real name or otherwise sought leave to proceed anonymously. Accordingly, her Complaint fails to comply with Rules 10(a) and 17(a).

Because Plaintiff failed to timely effectuate service of process, failed to properly identify herself in the Complaint or make an appropriate application to proceed anonymously, and because she has failed to provide any explanation in opposition to CMS's motion to dismiss, the motion is GRANTED and the Complaint is DISMISSED AS TO DEFENDANT CMS WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: January 31, 2006

  
Thomas J. McAvoy  
Senior, U.S. District Judge